



Elementary Secondary Education Committee

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09600HB5340ham002

LRB096 16870 MJR 38525 a

1 AMENDMENT TO HOUSE BILL 5340

2 AMENDMENT NO. _____. Amend House Bill 5340, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The School Code is amended by changing Section
6 10-21.9 as follows:

7 (105 ILCS 5/10-21.9) (from Ch. 122, par. 10-21.9)

8 Sec. 10-21.9. Criminal history records checks and checks of
9 the Statewide Sex Offender Database and Statewide Child
10 Murderer and Violent Offender Against Youth Database.

11 (a) Certified and noncertified applicants for employment
12 with a school district, except school bus driver applicants,
13 are required as a condition of employment to authorize a
14 fingerprint-based criminal history records check to determine
15 if such applicants have been convicted of any of the enumerated
16 criminal or drug offenses in subsection (c) of this Section or

1 have been convicted, within 7 years of the application for
2 employment with the school district, of any other felony under
3 the laws of this State or of any offense committed or attempted
4 in any other state or against the laws of the United States
5 that, if committed or attempted in this State, would have been
6 punishable as a felony under the laws of this State.
7 Authorization for the check shall be furnished by the applicant
8 to the school district, except that if the applicant is a
9 substitute teacher seeking employment in more than one school
10 district, a teacher seeking concurrent part-time employment
11 positions with more than one school district (as a reading
12 specialist, special education teacher or otherwise), or an
13 educational support personnel employee seeking employment
14 positions with more than one district, any such district may
15 require the applicant to furnish authorization for the check to
16 the regional superintendent of the educational service region
17 in which are located the school districts in which the
18 applicant is seeking employment as a substitute or concurrent
19 part-time teacher or concurrent educational support personnel
20 employee. Upon receipt of this authorization, the school
21 district or the appropriate regional superintendent, as the
22 case may be, shall submit the applicant's name, sex, race, date
23 of birth, social security number, fingerprint images, and other
24 identifiers, as prescribed by the Department of State Police,
25 to the Department. The regional superintendent submitting the
26 requisite information to the Department of State Police shall

1 promptly notify the school districts in which the applicant is
2 seeking employment as a substitute or concurrent part-time
3 teacher or concurrent educational support personnel employee
4 that the check of the applicant has been requested. The
5 Department of State Police and the Federal Bureau of
6 Investigation shall furnish, pursuant to a fingerprint-based
7 criminal history records check, records of convictions, until
8 expunged, to the president of the school board for the school
9 district that requested the check, or to the regional
10 superintendent who requested the check. The Department shall
11 charge the school district or the appropriate regional
12 superintendent a fee for conducting such check, which fee shall
13 be deposited in the State Police Services Fund and shall not
14 exceed the cost of the inquiry; and the applicant shall not be
15 charged a fee for such check by the school district or by the
16 regional superintendent. Subject to appropriations for these
17 purposes, the State Superintendent of Education shall
18 reimburse school districts and regional superintendents for
19 fees paid to obtain criminal history records checks under this
20 Section.

21 (a-5) The school district or regional superintendent shall
22 further perform a check of the Statewide Sex Offender Database,
23 as authorized by the Sex Offender Community Notification Law,
24 for each applicant.

25 (a-6) The school district or regional superintendent shall
26 further perform a check of the Statewide Child Murderer and

1 Violent Offender Against Youth Database, as authorized by the
2 Child Murderer and Violent Offender Against Youth Community
3 Notification Law, for each applicant.

4 (b) Any information concerning the record of convictions
5 obtained by the president of the school board or the regional
6 superintendent shall be confidential and may only be
7 transmitted to the superintendent of the school district or his
8 designee, the appropriate regional superintendent if the check
9 was requested by the school district, the presidents of the
10 appropriate school boards if the check was requested from the
11 Department of State Police by the regional superintendent, the
12 State Superintendent of Education, the State Teacher
13 Certification Board, ~~or~~ any other person necessary to the
14 decision of hiring the applicant for employment, or for
15 clarification purposes the Department of State Police or
16 Statewide Sex Offender Database, or both. A copy of the record
17 of convictions obtained from the Department of State Police
18 shall be provided to the applicant for employment. Upon the
19 check of the Statewide Sex Offender Database, the school
20 district or regional superintendent shall notify an applicant
21 as to whether or not the applicant has been identified in the
22 Database as a sex offender. If a check of an applicant for
23 employment as a substitute or concurrent part-time teacher or
24 concurrent educational support personnel employee in more than
25 one school district was requested by the regional
26 superintendent, and the Department of State Police upon a check

1 ascertains that the applicant has not been convicted of any of
2 the enumerated criminal or drug offenses in subsection (c) or
3 has not been convicted, within 7 years of the application for
4 employment with the school district, of any other felony under
5 the laws of this State or of any offense committed or attempted
6 in any other state or against the laws of the United States
7 that, if committed or attempted in this State, would have been
8 punishable as a felony under the laws of this State and so
9 notifies the regional superintendent and if the regional
10 superintendent upon a check ascertains that the applicant has
11 not been identified in the Sex Offender Database as a sex
12 offender, then the regional superintendent shall issue to the
13 applicant a certificate evidencing that as of the date
14 specified by the Department of State Police the applicant has
15 not been convicted of any of the enumerated criminal or drug
16 offenses in subsection (c) or has not been convicted, within 7
17 years of the application for employment with the school
18 district, of any other felony under the laws of this State or
19 of any offense committed or attempted in any other state or
20 against the laws of the United States that, if committed or
21 attempted in this State, would have been punishable as a felony
22 under the laws of this State and evidencing that as of the date
23 that the regional superintendent conducted a check of the
24 Statewide Sex Offender Database, the applicant has not been
25 identified in the Database as a sex offender. The school board
26 of any school district may rely on the certificate issued by

1 any regional superintendent to that substitute teacher,
2 concurrent part-time teacher, or concurrent educational
3 support personnel employee or may initiate its own criminal
4 history records check of the applicant through the Department
5 of State Police and its own check of the Statewide Sex Offender
6 Database as provided in subsection (a). Any person who releases
7 any confidential information concerning any criminal
8 convictions of an applicant for employment shall be guilty of a
9 Class A misdemeanor, unless the release of such information is
10 authorized by this Section.

11 (c) No school board shall knowingly employ a person who has
12 been convicted of any offense that would subject him or her to
13 certification suspension or revocation pursuant to Section
14 21-23a of this Code. Further, no school board shall knowingly
15 employ a person who has been found to be the perpetrator of
16 sexual or physical abuse of any minor under 18 years of age
17 pursuant to proceedings under Article II of the Juvenile Court
18 Act of 1987.

19 (d) No school board shall knowingly employ a person for
20 whom a criminal history records check and a Statewide Sex
21 Offender Database check has not been initiated.

22 (e) Upon receipt of the record of a conviction of or a
23 finding of child abuse by a holder of any certificate issued
24 pursuant to Article 21 or Section 34-8.1 or 34-83 of the School
25 Code, the State Superintendent of Education may initiate
26 certificate suspension and revocation proceedings as

1 authorized by law.

2 (e-5) The superintendent of the employing school board
3 shall, in writing, notify the State Superintendent of Education
4 and the applicable regional superintendent of schools of any
5 certificate holder whom he or she has reasonable cause to
6 believe has committed an intentional act of abuse or neglect
7 with the result of making a child an abused child or a
8 neglected child, as defined in Section 3 of the Abused and
9 Neglected Child Reporting Act, and that act resulted in the
10 certificate holder's dismissal or resignation from the school
11 district. This notification must be submitted within 30 days
12 after the dismissal or resignation. The certificate holder must
13 also be contemporaneously sent a copy of the notice by the
14 superintendent. All correspondence, documentation, and other
15 information so received by the regional superintendent of
16 schools, the State Superintendent of Education, the State Board
17 of Education, or the State Teacher Certification Board under
18 this subsection (e-5) is confidential and must not be disclosed
19 to third parties, except (i) as necessary for the State
20 Superintendent of Education or his or her designee to
21 investigate and prosecute pursuant to Article 21 of this Code,
22 (ii) pursuant to a court order, (iii) for disclosure to the
23 certificate holder or his or her representative, or (iv) as
24 otherwise provided in this Article and provided that any such
25 information admitted into evidence in a hearing is exempt from
26 this confidentiality and non-disclosure requirement. Except

1 for an act of willful or wanton misconduct, any superintendent
2 who provides notification as required in this subsection (e-5)
3 shall have immunity from any liability, whether civil or
4 criminal or that otherwise might result by reason of such
5 action.

6 (f) After January 1, 1990 the provisions of this Section
7 shall apply to all employees of persons or firms holding
8 contracts with any school district including, but not limited
9 to, food service workers, school bus drivers and other
10 transportation employees, who have direct, daily contact with
11 the pupils of any school in such district. For purposes of
12 criminal history records checks and checks of the Statewide Sex
13 Offender Database on employees of persons or firms holding
14 contracts with more than one school district and assigned to
15 more than one school district, the regional superintendent of
16 the educational service region in which the contracting school
17 districts are located may, at the request of any such school
18 district, be responsible for receiving the authorization for a
19 criminal history records check prepared by each such employee
20 and submitting the same to the Department of State Police and
21 for conducting a check of the Statewide Sex Offender Database
22 for each employee. Any information concerning the record of
23 conviction and identification as a sex offender of any such
24 employee obtained by the regional superintendent shall be
25 promptly reported to the president of the appropriate school
26 board or school boards.

1 (Source: P.A. 95-331, eff. 8-21-07; 96-431, eff. 8-13-09.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".